2003 DRAFTING REQUEST

Bill

Received: 04/07/2003				j.	Received By: dkennedy				
Wanted	: As time perm	nits	Identical to LRB:						
For: Ma	arlin Schneidei	r (608) 266-02	By/Representing	g: Himself					
This file	e may be shown	to any legislat	or: NO		Drafter: dkennedy				
May Co	ontact:		Addl. Drafters:						
Subject	: Health	- miscellaneou	S		Extra Copies:				
Submit	via email: YES								
Request	ter's email:	Rep.Schne	ider@legis	.state.wi.us					
Carbon	copy (CC:) to:						t		
Pre To	pic:		V. W.						
No spec	cific pre topic gi	iven							
Topic:	 								
Require	patient be info	rmed if health o	eare records	are transferre	ed and given optio	n not to transfe	r		
Instruc	etions:								
See Atta	ached								
Draftin	g History:								
Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	<u>Submitted</u>	Jacketed	Required		
/?							S&L		
/1	dkennedy 07/15/2003	kgilfoy 08/25/2003	chaskett 08/26/200	03	sbasford 08/26/2003		S&L Crime		
/2	dkennedy 09/05/2003	kgilfoy 09/05/2003	rschluet 09/08/200	03	lemery 09/08/2003		S&L Crime		

Vers.	Drafted	Reviewed	Typed	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	Required
/3	dkennedy 09/23/2003	kgilfoy 09/23/2003	jfrantze 09/24/200	3	lnorthro 09/24/2003	lnorthro 09/24/2003	

FE Sent For:

<**END**>

2003 DRAFTING REQUEST

Bill

Receive	ed: 04/07/2003				Received By: dl	kennedy			
Wanted: As time permits					Identical to LRB:				
For: Ma	arlin Schneider	(608) 266-02	15		By/Representing: Himself				
This file	e may be shown	to any legislat	or: NO		Drafter: dkennedy				
May Contact:					Addl. Drafters:				
Subject: Health - miscellaneous					Extra Copies:				
Submit	via email: YES		:						
Request	ter's email:	Rep.Schne	ider@legis.	state.wi.us					
Carbon	copy (CC:) to:								
Pre To	pic:								
No spec	cific pre topic gi	ven							
Topic:									
Require	patient be info	rmed if health o	care records	are transferre	d and given option	n not to transfe	r		
Instruc	etions:								
See Atta	ached								
Draftin	g History:	·							
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	<u>Required</u>		
/?							S&L		
/1	dkennedy 07/15/2003	kgilfoy 08/25/2003	chaskett 08/26/200	03	sbasford 08/26/2003		S&L Crime		
/2	dkennedy 09/05/2003	kgilfoy 09/05/2003	rschluet 09/08/200	03	lemery 09/08/2003		S&L Crime		

09/24/2003 11:40:15 AM Page 2

Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required
/3	dkennedy 09/23/2003	kgilfoy 09/23/2003	jfrantze 09/24/200	3	lnorthro 09/24/2003		

FE Sent For:

<**END**>

2003 DRAFTING REQUEST

Bill

Received: 04/07/2003					Received By: dkennedy			
Wanted: As time permits					Identical to LRB:			
For: Mar	lin Schneider	(608) 266-02		By/Representing: Himself				
This file	may be shown	to any legislate	or: NO		Drafter: dkenne	dy		
May Con	tact:				Addl. Drafters:			
Subject:	Health	- miscellaneou	Extra Copies:					
Submit vi	ia email: YES							
Requeste	r's email:	Rep.Schne	ider@legis.	state.wi.us				
Carbon co	opy (CC:) to:							
Pre Topi	ic:							
No specif	ic pre topic gi	ven						
Topic:	-					· · · · · · · · · · · · · · · · · · ·		
Require p	eatient be info	rmed if health c	are records	are transferre	ed and given option	not to transfe	r	
Instructi	ons:							
See Attac	hed							
Drafting	History:							
Vers.	Drafted	Reviewed	Typed	Proofed	<u>Submitted</u>	<u>Jacketed</u>	Required	
/?							S&L	
/1	dkennedy 07/15/2003	kgilfoy 08/25/2003	chaskett 08/26/200	03	sbasford 08/26/2003		S&L Crime	
/2	dkennedy 09/05/2003	kgilfoy 09/05/2003	rschluet 09/08/200	03	lemery 09/08/2003			

09/08/2003 10:47:08 AM Page 2

<u>Vers.</u> <u>Drafted</u> <u>Reviewed</u> <u>Typed</u> <u>Proofed</u> <u>Submitted</u> <u>Jacketed</u> <u>Required</u>

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 04/07/2003

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing: Himself

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject:

Health - miscellaneous

Extra Copies:

RLK=

Submit via email: YES

Requester's email:

Rep.Schneider@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Require patient be informed if health care records are transferred and given option not to transfer

Instructions:

See Attached

Drafting History:

Vers.

Drafted

Reviewed

Typed

Proofed

Submitted

Jacketed

Required

/?

S&L

/1

dkennedy 07/15/2003

kgilfoy 08/25/2003 chaskett 08/26/2003

sbasford 08/26/2003

FE Sent For:

2003 DRAFTING REQUEST

Bill

FE Sent For:

Received: 04/07/2003	Received By: dkennedy Identical to LRB:				
Wanted: As time permits					
For: Marlin Schneider (608) 266-0215	By/Representing: Himself				
This file may be shown to any legislator: NO	Drafter: dkennedy				
May Contact:	Addl. Drafters:				
Subject: Health - miscellaneous	Extra Copies: RLR				
Submit via email: YES					
Requester's email: Rep.Schneider@legis.state.wi.us					
Carbon copy (CC:) to:					
Pre Topic:					
No specific pre topic given					
Topic:					
Require patient be informed if health care records are transferr	ed and given option not to transfer				
Instructions:					
See Attached					
Drafting History:	•				
Vers. Drafted Reviewed Typed Proofed (3Col	Submitted Jacketed Required				

<**END>**

TELEPHONE DRAFTING INSTRUCTIONS

Drafting instructions received by Debora Kennedy.

DATE:

4/7/03

Marlin Schneider

OF:

TELEPHONE NO:

REGARDING LRB# OR DRAFT TOPIC:

146.819 Requie that pt- be cufamed if records are to be transferred; guie pt. 15 days to reply + request records for seef, rather than transferer.

(K-mart sold records to Shopko; pt. Knew persons at Shopks + didn't want records transferred.)

Kennedy, Debora

From: Kieper, Cynthia L.

Sent: Tuesday, April 08, 2003 12:57 PM

To: Kennedy, Debora

Subject: Bill for Representative Schnedier

Hi Pamela,

Marlin was hoping to get a bill drafted to stop pharmacies from selling prescriptions to other pharmacies without the patience consent.

Kennedy, Debora

From: Kieper, Cynthia L.

Sent: Thursday, July 10, 2003 1:28 PM

To: Kennedy, Debora

Subject: Can you draft a bill for Representative

The representative recieved the e-mail below and would like a bill drafted to stop pharmacies from selling the prescriptions without consent.

Schneider, Marlin

From: Sent: To: Subject:

meweaver [meweaver@tznet.com] Wednesday, April 09, 2003 8:27 AM Rep.Schneider@legis.state.wi.us K-Mart Pharmacy

April 8, 2003

Marlin,

I talked to you, by phone, on Monday, April 7, 2003, about the K-Mart Pharmacy in Wisconsin Rapids selling our prescriptions to Shopko.

I knew there was a chance the K-Mart store in Wisconsin Rapids might close. I waited until after the bankruptcy hearing, January 28, 2003, to see if the store here would be closing. This was on Tuesday so on Friday, January 31, 2003, I called the pharmacy to see when they would be closing. To my surprise, my phone call was transferred to Shopko Pharmacy. I called the K-Mart store and was informed they had closed Thursday noon.

I feel violated. I try very hard to protect my privacy and chose my pharmacy with great care. I know people that work at the Shopko Pharmacy and whether or not they "talk" outside of work, I don't know, but there is no way I would have ever taken my prescriptions there.

I feel K-Mart Pharmacy should have sent each of their customers a notice of their closing and where we wished to have our prescriptions sent or destroyed. At the very least, a notice should have been put in the newspaper informing pharmacy customers of their closing and what was to become of the prescriptions.

I knew that when pharmacies go out of business they sell their prescriptions to another pharmacy but having no control over what is mine really bothers me. There went some of my very private, personal medical information.

I did transfer my prescriptions from Shopko to Wal-Mart but it took two tries to get them transferred. So how many more hands did my prescriptions pass through?

The last time I was in Wal-Mart, the pharmacist asked if I ever followed up on contacting you, or an attorney, about this matter. She said I wasn't the only one upset over this matter.

Thank you for your consideration,

Mary Weaver 1021 Weeping Willow Drive Wisconsin Rapids, WI 54494 (715)423-8053

Kennedy, Debora

From: Kennedy, Debora

Sent: Thursday, July 10, 2003 2:05 PM

To: Kieper, Cynthia L.

Subject: RE: Can you draft a bill for Representative

I already have this request on file--what Representative Schneider agreed to have me draft was a requirement that a patient be informed if his or her patient health care records are to be transferred. The patient will then have 15 days in which to reply and to request that the records be transmitted to the patient, rather than to the transferee. Under the definition of "health care provider" in s. 146.81, a pharmacy would be covered by such a bill. If you want me to change this request, please let me know; otherwise, I hope to get it off my desk by some time next week.

----Original Message-----From: Kieper, Cynthia L.

Sent: Thursday, July 10, 2003 1:28 PM

To: Kennedy, Debora

Subject: Can you draft a bill for Representative Schneider?

The representative recieved the e-mail below and would like a bill drafted to stop pharmacies from selling the prescriptions without consent.



State of Misconsin 2003 - 2004 LEGISLATURE



LRB-2505/1 DAK: |...j...

2003 BILL

Contider

AN ACT /..; relating to: the transfer of patient health care records from one health

care provider to another.

yen.Cat.

Analysis by the Legislative Reference Bureau

Under current law, a health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who practiced independently must do one of the following with respect to the patient health care records in his or her possession:

1. Provide for the maintenance of the health care records by a person who states, in writing, that they will be maintained under requirements of current law.

2. Delete or destroy the health care records.

The health care provider or personal representative must send written notice to each patient whose patient health care records are to be maintained and must publish a class 3 newspaper notice that specifies where and by whom the records will be maintained. If the patient health care records are to be deleted or destroyed, the health care provider or personal representative must provide 35 days notice to the patient before the deletion or destruction and must publish a class 3 newspaper notice.

This bill requires that, if a health care provider who ceases practice or the personal representative of an independently practicing deceased health care provider intends to transfer to another health care provider the patient health care records in the possession of the provider or personal representative, the health care provider or personal representative must do all of the following:

1. Provide written notice, to each patient or person authorized by the patient, of where and to whom the records will be transferred.

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2. Publish a class notice specifying where and to whom the patient health care records will be transferred.

Under the bill, the health care provider or personal representative may not transfer a patient health care record to another health care provider unless 15 days have elapsed since the patient was provided notice by mail of the transfer and notice was published and unless, within that time, the patient has failed to indicate his or her desires with respect to the records. If the patient requests his or her patient health care records, the health care provider or personal representative must transmit them to the patient.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.819 (title) of the statutes is amended to read:

146.819 (title) Preservation or, destruction, or transfer of patient health care records.

History: 1991 a. 269; 1993 a. 27; 1999 a. 9.

SECTION 2. 146.819 (1) (am) of the statutes is created to read:

146.819 (1) (am) Provide for the transfer of the patient health care records to another health care provider who states, in writing, that the records will be maintained in compliance with ss. 146.81 to 146.835.

SECTION 3. 146.819 (1) (c) of the statutes is amended to read:

146.819 (1) (c) Provide for the maintenance of some of the patient health care records, as specified in par. (a) or for the transfer of some of the patient health care records, as specified in par. (am), and for the deletion or destruction of some of the records, as specified in par. (b).

History: 1991 a. 269; 1993 a. 27; 1999 a. 9.

SECTION 4. 146.819 (2m) of the statutes is created to read:

$146.819(\mathbf{2m})$ (a) If the health care provider or personal repre	esentative provides
under sub. (1) for the transfer of any patient health care record	ls, the health care
provider or personal representative shall also do all of the follow	ing:

- 1. Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose patient health care records will be transferred, at the last-known address of the patient or person, describing where and to whom the records shall be transferred.
- 2. Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and to whom the patient health care records will be transferred.
- (b) No health care provider or personal representative to whom par. (a) applies may transfer a patient health care record to another health care provider unless 15 days have elapsed since provision of notice under par. (a) 1. and publication of a notice under par. (a) 2. and unless the patient or person authorized by the patient has failed to indicate his or her desires with respect to disposition of the records. The health care provider or personal representative shall transmit the patient health care records to the patient or person authorized by the patient if, before the 15 days have elapsed, the patient or person requests that this be done.

(END)

D-NOTE

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2505/1dn DAK: J.

To Representative Schneider:



Although, under current law, specific penalties exist under s. 146.84 for violations of s. 146.82, stats. (provisions concerning confidentiality of patient health care records) and s. 146.83, stats. (provisions concerning access to patient health care records), no specific penalties exist for violations of s. 146.819, stats. (provisions concerning the preservation or destruction of patient health care records, which I have amended in creating this bill). Therefore, a violation of s. 146.819, stats., would be punishable under s. 939.61, stats., as a forfeiture of up to \$200. Would you want any different penalty to apply, or, conversely, would you want no penalty to apply to a violator?

Debora A. Kennedy Managing Attorney Phone: (608) 266, 0127

Phone: (608) 266-0137

E-mail: debora.kennedy@legis.state.wi.us

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2505/1dn DAK:kmg:cph

August 26, 2003

To Representative Schneider:

Although, under current law, specific penalties exist under s. 146.84 for violations of s. 146.82, stats. (provisions concerning confidentiality of patient health care records) and of s. 146.83, stats. (provisions concerning access to patient health care records), no specific penalties exist for violations of s. 146.819, stats. (provisions concerning the preservation or destruction of patient health care records, which I have amended in creating this bill). Therefore, a violation of s. 146.819, stats., would be punishable under s. 939.61, stats., as a forfeiture of up to \$200. Would you want any different penalty to apply, or, conversely, would you want no penalty to apply to a violator?

Debora A. Kennedy Managing Attorney Phone: (608) 266–0137

E-mail: debora.kennedy@legis.state.wi.us

Kennedy, Debora

From:

Schneider, Marlin

Sent:

Wednesday, September 03, 2003 1:28 PM

To:

Kennedy, Debora

Subject:

Submitted: LRB 03-2505/1 Topic: Require patient be informed if health care records are

transferred and given option not to transfer?body=

I would like this redrafted with a \$10,000 fine for each occurrence. Each occurrence would include each individual affected because otherwise big corporations might find it more lucrative to just do it and ignore the small fine. - Marlin



State of Misconsin 2003 - 2004 LEGISLATURE

D-NOTE

LRB-2505/2/2-DAK:kmg:eph

2003 BILL

, other than a community-based residential facility, hospital, hospice, home health agency, or Tocal health department,

AN ACT to amend 146.819 (title) and 146.819 (1) (c); and to create 146.819 (1)

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(am) and 146.819 (2m) of the statutes; relating to: the transfer of patient

health care records from one health care provider to another

Analysis by the Legislative Reference Bureau

Under current law, a health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who practiced independently must do one of the following with respect to the patient health care records in his or her possession:

1. Provide for the maintenance of the health care records by a person who states, in writing, that they will be maintained under confidentiality and access requirements of current law.

2. Delete or destroy the health care records.

The health care provider or personal representative must send written notice to each patient whose patient health care records are to be maintained and must publish a class three newspaper notice that specifies where and by whom the records will be maintained. If the patient health care records are to be deleted or destroyed, the health care provider or personal representative must provide 35 days' notice to the patient before the deletion or destruction and must publish a class three newspaper notice.

This bill requires that, if a health care provider who ceases practice or the personal representative of an independently practicing deceased health care provider intends to transfer to another health care provider the patient health care

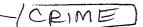
A violation of the prohibition 15, under the biel, subject to a fine of more than \$10,000 for a records in the possession of the provider or personal representative, the health care occurrence provider or personal representative must do all of the following:

1. Provide written notice, to each patient or person authorized by the patient, of where and to whom the records will be transferred.

2. Publish a class three newspaper notice specifying where and to whom the patient health care records will be transferred.

Under the bill, the health care provider or personal representative may not transfer a patient health care record to another health care provider unless 15 days have elapsed since the patient was provided notice by mail of the transfer and newspaper notice was published and unless, within that time, the patient has failed to indicate his or her desires with respect to the records. If the patient requests his or her patient health care records, the health care provider or personal representative must transmit them to the patient. For further information see the **state and local** fiscal estimate, which will be

printed as an appendix to this bill.



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The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 146.819 (title) of the statutes is amended to read:

146.819 (title) Preservation or, destruction, or transfer of patient health care records.

Section 2. 146.819 (1) (am) of the statutes is created to read:

146.819 (1) (am) Provide for the transfer of the patient health care records to another health care provider who states, in writing, that the records will be maintained in compliance with ss. 146.81 to 146.835.

SECTION 3. 146.819 (1) (c) of the statutes is amended to read:

146.819 (1) (c) Provide for the maintenance of some of the patient health care records, as specified in par. (a) or for the transfer of some of the patient health care records, as specified in par. (am), and for the deletion or destruction of some of the records, as specified in par. (b).

SECTION 4. 146.819 (2m) of the statutes is created to read:

146.819 (2m) (a) If the health care provider or personal representative provides
under sub. (1) for the transfer of any patient health care records, the health care
provider or personal representative shall also do all of the following:

- 1. Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose patient health care records will be transferred, at the last–known address of the patient or person, describing where and to whom the records shall be transferred.
- 2. Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and to whom the patient health care records will be transferred.
- (b) No health care provider or personal representative to whom par. (a) applies may transfer a patient health care record to another health care provider unless 15 days have elapsed since provision of notice under par. (a) 1. and publication of a notice under par. (a) 2. and unless the patient or person authorized by the patient has failed to indicate his or her desires with respect to disposition of the records. The health care provider or personal representative shall transmit the patient health care records to the patient or person authorized by the patient if, before the 15 days have elapsed, the patient or person requests that this be done.

SECTION CR; 146.819 (A)

146.819 (A) Whoever violates sub. (2m) may be fined not more than \$10,000 for each occurrence.

(End) (D-NOTE)

D-NOTE	:Kmq.
Do Representative Schneiden:	state.)
(H)	
Please note that, under S. 146,819(4), h	ospitals,
	İ
community-based residential facilities	, newoung
homes, hospices, home health agencies,	and
local hearth departments are excluded (State)	from
the provisions of 5,146,819, Does the	s pose
	\sim
a problem with respect to your intent	-? (statefun)
	\
Please also note that the term	nealta
care provider," as used in s. 146.819,	refers to
the definition under 5.146.81(1) That	definition
includes a gharmacist, at s. 146.81(1) (fm), \$ stato.
but does not include a pharmacy, &	lo you
Want me to include a phaimacy spe	ifically
Q	·
in the bire?	
DAK	

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2505/2dn DAK:kmg:rs

September 8, 2003

To Representative Schneider:

Please note that, under s. 146.819 (4), stats., hospitals, community—bases residential facilities, nursing homes, hospices, home health agencies, and local health departments are excluded from the provisions of s. 146.819, stats. Does this pose a problem with respect to your intent?

Please also note that the term "health care provider," as used in s. 146.819, stats., refers to the definition under s. 146.81 (1), stats. That definition includes a pharmacist, at s. 146.81 (1) (fm), stats., but does not include a pharmacy. Do you want me to include a pharmacy specifically in the bill?

Debora A. Kennedy Managing Attorney Phone: (608) 266–0137

E-mail: debora.kennedy@legis.state.wi.us

Kennedy, Debora

From:

Schneider, Marlin

Sent:

Monday, September 08, 2003 4:54 PM

To:

Kennedy, Debora

Subject:

Submitted: LRB 03-2505/2 Topic: Require patient be informed if health care records are

transferred and given option not to transfer?body=

I want to be sure that everyone is covered by this provision including pharmacies. That was the original intent because my constituent had K-Mart sell her records to Shopko.

From Rep Schneider 9/22:

Keep exceptions currently in 146.819 for purposes

3.146.819 in current law, but no exceptions

for francher provisions under this bill.

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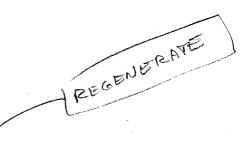
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500N-In edit 9/23 State of Misconsin

2003 – 2004 LEGISLATURE

LRB-2505/253 DAK:kmg:

2003 BILL



AN ACT to amend 146.819 (title) and 146.819 (1) (c); and to create 146.819 (1)

(am), 146.819 (2m) and 146.819 (5) of the statutes; relating to: the transfer of patient health care records from one health care provider to another and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a health care provider, other than a community-based residential facility, hospital, hospice, home health agency, or local health department, who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who practiced independently must do one of the following with respect to the patient health care records in his or her possession:

- 1. Provide for the maintenance of the health care records by a person who states, in writing, that they will be maintained under confidentiality and access requirements of current law.
 - 2. Delete or destroy the health care records.

The health care provider or personal representative must send written notice to each patient whose patient health care records are to be maintained and must publish a class three newspaper notice that specifies where and by whom the records will be maintained. If the patient health care records are to be deleted or destroyed, the health care provider or personal representative must provide 35 days' notice to the patient before the deletion or destruction and must publish a class three newspaper notice.

This bill requires that, if a health care provider who ceases practice or the personal representative of an independently practicing deceased health care provider intends to transfer to another health care provider the patient health care records in the possession of the provider or personal representative, the health care provider or personal representative must do all of the following:

1. Provide written notice, to each patient or person authorized by the patient, of where and to whom the records will be transferred.

2. Publish a class three newspaper notice specifying where and to whom the patient health care records will be transferred.

Under the bill, the health care provider or personal representative may not transfer a patient health care record to another health care provider unless 15 days have elapsed since the patient was provided notice by mail of the transfer and newspaper notice was published and unless, within that time, the patient has failed to indicate his or her desires with respect to the records. If the patient requests his or her patient health care records, the health care provider or personal representative must transmit them to the patient. A violation of the prohibition is, under the bill, subject to a fine of not more than \$10,000 for each occurrence.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INSERT 2-1 $\overline{1}$

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SECTION 1. 146.819 (title) of the statutes is amended to read:

146.819 (title) Preservation or, destruction, or transfer of patient

health care records.

SECTION 2. 146.819 (1) (am) of the statutes is created to read:

146.819 (1) (am) Provide for the transfer of the patient health care records to another health care provider who states, in writing, that the records will be

7 maintained in compliance with ss. 146.81 to 146.835.

SECTION 3. 146.819 (1) of the statutes is amended to read?

146.819 (1) (c) Provide for the maintenance of some of the patient health care

records, as specified in par. (a) or for the transfer of some of the patient health care

records, as specified in par (am), and for the deletion or destruction of some of the records, as specified in par. (b).

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SECTION 4. 146.819 (2m) of the statutes is created to read:

146.819 (2m) (a) If the health care provider or personal representative provides under sub. (1) for the transfer of any patient health care records, the health care provider or personal representative shall also do all of the following:

- 1. Provide written notice, by 1st class mail, to each patient or person authorized by the patient whose patient health care records will be transferred, at the last-known address of the patient or person, describing where and to whom the records shall be transferred.
- 2. Publish, under ch. 985, a class 3 notice in a newspaper that is published in the county in which the health care provider's or decedent's health care practice was located, specifying where and to whom the patient health care records will be transferred.
- (b) No health care provider or personal representative to whom par. (a) applies may transfer a patient health care record to another health care provider unless 15 days have elapsed since provision of notice under par. (a) 1. and publication of a notice under par. (a) 2. and unless the patient or person authorized by the patient has failed to indicate his or her desires with respect to disposition of the records. The health care provider or personal representative shall transmit the patient health care records to the patient or person authorized by the patient if, before the 15 days have elapsed, the patient or person requests that this be done.

SECTION 5. 146.819 (5) of the statutes is created to read:

146.819 (5) Whoever violates sub. (2m) (b) may be fined not more than \$10,000 for each occurrence.

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(END)

2003–2004 Drafting Insert FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-2505/3ins DAK:kmg:rs

The requirements apply to a health care provider that includes a pharmacy, community-based residential facility, hospital, hospice, home health agency, and local health department.

INSERT 2-1

SECTION 1. 146.81 (intro.) of the statutes is amended to read:

146.81 Health care records; definitions. (intro.) In ss. 146.81 to

146.82 to 146.84:

History: 1979 c. 221; 1981 c. 39 s. 22; 1983 a. 27; 1983 a. 189 s. 329 (1); 1983 a. 535; 1985 a. 315; 1987 a. 27, 70, 264; 1987 a. 399 ss. 403br, 491r; 1987 a. 403; 1989 a. 31, 168, 199, 200, 229, 316, 359; 1991 a. 39, 160, 269; 1993 a. 27, 32, 105, 112, 183, 385, 443, 496; 1995 a. 27 s. 9145 (1); 1995 a. 77, 98, 352; 1997 a. 27, 67, 75, 156, 175; 1995 a. 9, 32, 151, 180, 188; 2001 a. 38, 70, 74, 80, 89.

INSERT 2-3

SECTION 2. 146.819 (1g) of the statutes is created to read: 4

146.819 (1g) Except as provided in sub. (4), in this section, "health care provider" has the meaning given in s. 146.81 (1) and includes all of the following:

(a) A home health agency licensed under s. 50.49 (4). \checkmark

(b) A local health department, as defined in s. 250.01 (4).

(b) A pharmacy licensed under s. 450.06 (2).

SECTION 3. 146.819 (1) (intro.) of the statutes is renumbered 146.819 (1m)

(intro.) and amended to read:

146.819 (1m) (intro.) Except as provided in sub. (4), any health care provider who ceases practice or business as a health care provider or the personal representative of a deceased health care provider who was an independent practitioner shall do one any of the following for all patient health care records in the possession of the health care provider when the health care provider ceased business or practice or died:

History: 1991 a. 269; 1993 a. 27; 1999 a. 9.

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$\sqrt{1}$	SECTION 4. 146.819 (1) (a) of the statutes is renumbered 146.819 (1m) (a) and
2	amended to read:
3	146.819 (1m) (a) Provide for the maintenance of the patient health care records
$\left \begin{array}{c} 4 \end{array} \right $	by a person, other than a health care provider under par. (am), who states, in writing,
$\sqrt[7]{5}$	that the records will be maintained in compliance with ss. 146.81 to 146.835.
6	History: 1991 a. 269; 1993 a. 27; 1999 a. 9. SECTION 5. 146.819 (1) (b) of the statutes is renumbered 146.819 (1m) (b).
$\sqrt{7}$	SECTION 6. 146.819 (1) (c) of the statutes is repealed.
	✓ INSERT 3–2
8	SECTION 7. 146.819 (2) (intro.) of the statutes is amended to read:
9	146.819 (2) (intro.) If the health care provider or personal representative
10	provides for the maintenance of any of the patient health care records under sub. (1)
11	(1m), the health care provider or personal representative shall also do at least one
12	of the following:
-	History: 1991 a. 269; 1993 a. 27; 1999 a. 9.
13	INSERT 3-22
19	SECTION 8. 146.819 (3) (intro.) of the statutes is amended to read:
14	146.819 (3) (intro.) If the health care provider or personal representative
15	provides for the deletion or destruction of any of the patient health care records under
16	sub. (1) (1m), the health care provider or personal representative shall also do at least
17	one of the following:
18	History: 1991 a. 269; 1993 a. 27; 1999 a. 9. SECTION 9. 146.819 (4) (intro.) of the statutes is amended to read:
19	146.819 (4) (intro.) This section does Subsections (1m) (a) and (b), (2), and (3)
20	do not apply to a health care provider that is any of the following:
	History: 1991 a. 269; 1993 a. 27; 1999 a. 9.

Basford, Sarah

From:

Schneider, Marlin

Sent:

Wednesday, September 24, 2003 12:33 PM

To:

LRB.Legal

Subject:

Draft review: LRB 03-2505/3 Topic: Require patient be informed if health care records are

transferred and given option not to transfer

It has been requested by <Schneider, Marlin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2505/3 Topic: Require patient be informed if health care records are transferred and given option not to transfer